

SSB 5992 - H COMM AMD
By Committee on Commerce & Labor

NOT ADOPTED 04/14/2005

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 51.44.040 and 1982 c 63 s 14 are each amended to read
4 as follows:

5 (1) There shall be in the office of the state treasurer, a fund to
6 be known and designated as the "second injury fund", which shall be
7 used only for the purpose of defraying charges against it as provided
8 in RCW 51.16.120 and 51.32.250(~~(, as now or hereafter amended. Said)~~).
9 The fund shall be administered by the director. The state treasurer
10 shall be the custodian of the second injury fund and shall be
11 authorized to disburse moneys from it only upon written order of the
12 director.

13 (2) Payments to the second injury fund from the accident fund shall
14 be made pursuant to rules (~~and regulations promulgated~~) adopted by
15 the director.

16 (3)(a) Assessments for the second injury fund shall be imposed on
17 self-insurers pursuant to rules (~~and regulations promulgated by the~~
18 ~~director to ensure that self-insurers shall pay to such fund~~) adopted
19 by the director. Such rules shall provide for at least the following:

20 (i) Except as provided in (a)(ii) of this subsection, the amount
21 assessed each self-insurer must be in the proportion that the payments
22 made from (~~such~~) the fund on account of claims made against self-
23 insurers bears to the total sum of payments from (~~such~~) the fund.

24 (ii) Beginning with assessments imposed on or after July 1, 2009,
25 but before July 1, 2012, the department shall experience rate the
26 amount assessed each self-insurer as long as the aggregate amount
27 assessed is in the proportion that the payments made from the fund on
28 account of claims made against self-insurers bears to the total sum of
29 payments from the fund. The experience rating factor must provide
30 equal weight to the ratio between expenditures made by the second

1 injury fund for claims of the self-insurer to the total expenditures
2 made by the second injury fund for claims of all self-insurers for the
3 prior three fiscal years and the ratio of workers' compensation claim
4 payments under this title made by the self-insurer to the total
5 worker's compensation claim payments made by all self-insurers under
6 this title for the prior three fiscal years. The weighted average of
7 these two ratios must be divided by the latter ratio to arrive at the
8 experience factor.

9 (b) For purposes of this subsection, "expenditures made by the
10 second injury fund" mean the costs and charges described under RCW
11 51.32.250 and 51.16.120 (3) and (4), and the amounts assessed to the
12 second injury fund as described under RCW 51.16.120(1). Under no
13 circumstances does "expenditures made by the second injury fund"
14 include any subsequent payments, assessments, or adjustments for
15 pensions, where the applicable second injury fund entitlement was
16 established outside of the three fiscal years.

17 NEW SECTION. Sec. 2. The department of labor and industries must
18 report to the appropriate committees of the legislature by December 1,
19 2011, on the outcomes of workers potentially impacted by the experience
20 rating program established in RCW 51.44.040(3)(a)(ii). The report must
21 include a comparison of outcomes for workers of self-insurers whose
22 industrial insurance claims are closed between July 1, 2003, and June
23 30, 2005, and have thirty or more days of temporary total disability,
24 with such workers of self-insurers whose industrial insurance claims
25 are closed between July 1, 2009, and June 30, 2011. The outcomes to be
26 compared include, but are not limited to, whether the workers
27 potentially impacted by the experience rating program have improved
28 return-to-work outcomes, whether the number of impacted workers found
29 to be employable increases, whether there is a change in long-term
30 disability outcomes among the impacted workers, and whether the number
31 of permanent total disability pensions among impacted workers is
32 affected and, if so, the nature of the impact. The department must
33 develop a study methodology, including an assessment tool that must be
34 provided to the workers' compensation advisory committee for review and
35 comment. The study methodology will include appropriate controls to
36 account for economic fluctuations and wage inflation."

1 Correct the title.

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